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EXCEPTION

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

ORIGINAL

1 BOB STUMP, CHAIRMAN
2 GARY PIERCE
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5 SUSAN BITTER SMITH

BEFORE THE ARIZONA CORPORATION COMMISSION

6
7
8 IN THE MATTER OF THE APPLICATION
9 OF TRUXTON CANYON WATER
10 COMPANY, INC. FOR APPROVAL OF A
11 RATE INCREASE.

DOCKET NO. W-02168A-11-0363

12 IN THE MATTER OF THE APPLICATION
13 OF TRUXTON CANYON WATER
14 COMPANY, INC. FOR APPROVAL OF A
15 REVISION OF THE COMPANY'S
16 EXISTING TERMS AND CONDITIONS OF
17 WATER SERVICE.

DOCKET NO. W-02168A-13-0309

18 IN THE MATTER OF THE APPLICATION
19 OF TRUXTON CANYON WATER
20 COMPANY, INC. FOR AUTHORITY TO
21 INCUR LONG-TERM DEBT.

DOCKET NO. W-02168A-13-0332

EXCEPTIONS

Arizona Corporation Commission

DOCKETED

OCT 30 2014

DOCKETED BY 

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1 Pursuant to A.A.C. R14-3-110(B), Valle Vista Property Owners Association
2 ("VVPOA") submits the following Exceptions in the above referenced matter.

3 **INTRODUCTION**

4 VVPOA appreciates the Administrative Law Judge's well-reasoned conclusions
5 and recommendations included in the Recommended Opinion and Order ("ROO"), and
6 urges the Arizona Corporation Commission to adopt the water rates included therein. The
7 evidence presented in these consolidated proceeding demonstrate that Truxton Canyon
8 Water Company ("Truxton") has failed to: (i) abide by a previously Stipulated
9 Agreement, and subsequent Commission order, regarding the transfer of water utility
10 assets from the Claude K. Neal Family Trust ("Trust") to Truxton, (ii) establish any rate
11 base value for these Trust assets to support an increase in rates and charges, and (iii)
12 support its request to obtain financing approval for the construction of arsenic treatment
13 facilities in the amount of \$419,208, and \$1.4 million to acquire the Trust assets.

14 While the ROO provides an excellent overview about the state of affairs with
15 Truxton, and the several challenges VVPOA has endured in trying to maintain reliable
16 water utility service, there are two specific recommendations that the Commission should
17 adopt to ensure that VVPOA and other customers are paying just and reasonable rates; (1)
18 incorporating the true-up provisions of Decision No. 72724 (January 6, 2012), when the
19 Commission authorized an interim commodity rate of \$1.45 per 1,000 gallons, and
20 interim base monthly rates by meter size, and (ii) revise the third ordering paragraph to
21 make new rates effective immediately. Clearly, rate reductions for VVPOA and other
22 customers should not be held hostage to Truxton's ability to comply with – and
23 demonstrate – regulatory compliance. Finally, VVPOA asserts that the Commission
24 should adopt Staff's recommendation concerning the allocation of arsenic treatment
25 facility cost/surcharge of 6.2% to VVPOA.

26

1 **DISCUSSION**

2 1. **All Customers, Including VVPOA, Should Receive a Refund, or Credits**
3 **Against Existing and Future Monthly Water Bills.**

4 In the concurrent Order to Show Cause Proceeding, the Commission established an
5 interim commodity rate of \$1.45 per 1,000 gallons, as well as base monthly rates by meter
6 size, beginning in January 2012.¹ However, the interim rate is subject to refund, as
7 recommended by Commission Staff, and that "All monies collected through the interim
8 tariff will be subject to true up in the Company's currently pending rate case." Finally,
9 the Commission required VVPOA to submit a \$20,000 security deposit in 2012 for
10 continued water service, which Truxton still has not refunded though required to by
11 Decision No. 72724.

12 Since January 2012, VVPOA has paid Truxton approximately \$544,000 in total
13 water commodity charges. A chart detailing VVPOA's monthly usage, and relevant
14 charges, is attached hereto as Exhibit 1. As noted in the chart, had VVPOA been paying a
15 \$1.20 per 1,000 gallons commodity charge, as well as the reduced base monthly fees and
16 charges recommended in the ROO, the association would have saved approximately
17 \$105,688.93.² VVPOA asserts that in order to comply with the provisions of Decision
18 No. 72724, the Commission should adopt an amendment to the ROO that requires
19 Truxton to "true-up" customer accounts for overcharges since 2012, in the form of
20 monetary refunds or bill credits.

21 In addition, Truxton should be ordered to immediately refund VVPOA \$40,000 in
22 existing security deposits. Despite a requirement in Decision No. 72724 to refund the
23

24 ¹ Docket No. W-02168A-10-0247. Decision No. 72724. There is an error in the ROO at Page 34, lines 13-14,
25 which states that the rates and charges currently in effect were established in Decision No. 63713 (June 6, 2001).

26 ² This price difference does not include the difference in taxes paid versus what VVPOA would have paid for a lower overall bill.

1 initial \$20,000 security deposit as a credit to VVPOA's August 2012 water bill in the
2 absence of any late payments since January 2012, Truxton has not provided any such
3 credit . Furthermore, in anticipation of a rate increase, VVPOA provided Truxton another
4 \$20,000 deposit on February 12, 2012. VVPOA asserts that Truxton should immediately
5 refund the \$40,000 in existing security deposit owed to VVPOA pursuant to Decision No.
6 72724.

7 VVPOA's operating expenses are funded through member assessments (who are
8 also customers of Truxton), and the interim rates combined with security deposit
9 requirements has created an extreme hardship on the organization. VVPOA's is
10 encouraged by the recommended rates and charges included in the ROO, and their
11 adoption will significantly improve the economic hardship the organization currently
12 faces. Provisions concerning the true-up mandated by Decision No. 72724, as well as the
13 security deposit refund, is in the public interest and should be adopted. However, because
14 the amount of true-up for all customers is likely to be substantial, coupled with the need
15 for Truxton to maintain sufficient cash flow to maintain operations, the company should
16 be required to file a plan of administration – subject to further Commission approval –
17 that will implement a bill credit program for customers by February 1, 2015. A proposed
18 amendment incorporating the provisions addressed in this section is attached hereto as
19 Exhibit 2 for consideration.

20 **2. New Rates Should Go Into Effect Immediately.**

21 Currently, the third ordering paragraph states that new rates will not go into effect
22 until the first month after Truxton has filed documentation – in a manner acceptable to
23 Staff – demonstrating compliance with ADEQ requirements for monitoring Chlorine
24 residual and nitrates on the water system. VVPOA understands that in most instances,
25 water utilities are incented to make compliance filings so that a rate *increase* can go into
26 effect. However, in the event the rates adopted by the Commission represent a rate

1 *decrease* – which is the case in this proceeding if the ROO is approved – the new rates
2 and charges should immediately go into effect.

3 As demonstrated by the evidence in this proceeding, Truxton has a history of non-
4 compliance issues with the Commission and ADEQ. If Truxton is dissatisfied with the
5 rates adopted as a result of this proceeding, it can merely choose to ignore the compliance
6 requirement so that the *decrease* will never take effect. Clearly, VVPOA and other
7 customers should not be denied just and reasonable rates based on the actions, or inaction,
8 of Truxton. VVPOA proposes that the Commission replace the third ordering paragraph
9 with “The rates and charges approved herein shall become effective as of the date of this
10 Decision.”

11 3. **The Commission Should Adopt Staff’s Recommended 6.2% Cost Allocation**
12 **for Arsenic Treatment Facilities to VVPOA.**

13 Although VVPOA uses only non-potable water for its golf course operations, the
14 association acknowledges that potable water rates may include charges for the cost of
15 arsenic treatment facilities. VVPOA believes that such facilities will benefit Truxton’s
16 residential customers. Moreover, the ability of VVPOA’s membership to grow via new
17 residents is tied directly to the issue of compliance with EPA/ADEQ arsenic standards.
18 Currently, ADEQ has been denying applications for new connections in the Valle Vista
19 subdivision because of Truxton’s non-compliance. Therefore, some form of treatment is
20 necessary in order to provide safe drinking water, and accommodate growth.

21 In arriving at its recommendation of 6.2% to VVPOA, Staff allocated the cost
22 associated with the arsenic treatment facilities using customer equivalents. Using the
23 6.2% figure, VVPOA will be responsible for approximately \$16,107. By contrast, the
24 ALJ has proposed to allocate 36.9% of the cost to VVPOA using a calculation that
25 incorporates customer equivalents (6.2%) with a 67.6 percent volumetric rate (percentage
26 of water used vis-à-vis all other customers) divided by 2. While the basis for this

1 calculation is unclear, the result is; an increase to \$95,866 (approximately \$80,000 more
2 than recommended by Staff). Considering that VVPOA does not require treated water for
3 irrigation purposes, the association asserts that such a high allocation of costs to VVPOA
4 is excessive, and not supported by the evidence presented at hearing.

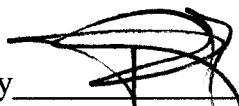
5 **CONCLUSION**

6 VVPOA has been waiting approximately three years for rate relief. The proposed
7 rates and charges included in the ROO provides VVPOA and other customers just and
8 reasonable rates, and should be adopted. These rate reductions should be implemented
9 immediately, along with the true-up required by Decision No. 72724. The only other
10 change VVPOA would make to the ROO is to adopt Staff's cost allocation of 6.2% to
11 VVPOA for the cost of arsenic treatment facilities. VVPOA strongly encourages the
12 Commission to adopt the amendments proposed herein, and adopt the remainder of the
13 ROO as in the public interest.

14 RESPECTFULLY SUBMITTED this 30th day of October, 2014.

15 FENNEMORE CRAIG

16
17
18 By


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1 **ORIGINAL** and 13 copies
2 of the foregoing was filed
3 this 30th day of October, 2014,
4 with:

5 Docket Control
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

9 **COPY** of the foregoing
10 was hand-delivered/mailed/emailed this
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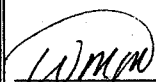
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EXHIBIT 1

Actual Billed and Paid at \$1.45 Interim Rate

	Gallons X 1000	Rate	Water Commodity Charges	Meter Charges (and +/-)	Combined Water Commodity and Meter Charge	Tax	Total Paid	Rates and Charges Under ROO	Overpayment not including taxes
2012									
January	1556.1	\$1.45	\$2,256.35	\$1,207.50	\$3,463.85	\$236.93	\$3,700.78	\$2,842.30	\$621.55
February	4434.3	\$1.45	\$6,429.74	\$1,202.50	\$7,632.24	\$522.81	\$8,155.05	\$6,296.14	\$1,336.10
March	6825.6	\$1.45	\$9,897.12	\$1,202.50	\$11,099.62	\$760.32	\$11,859.95	\$9,165.70	\$1,933.92
April	8171.6	\$1.45	\$11,848.82	\$1,202.50	\$13,051.32	\$894.02	\$13,945.34	\$10,780.90	\$2,270.42
May	17258.1	\$1.45	\$25,024.25	\$1,202.49	\$26,226.74	\$1,796.53	\$28,023.28	\$21,684.70	\$4,542.04
June	24089.1	\$1.45	\$34,929.20	\$1,202.48	\$36,131.69	\$2,475.02	\$38,606.72	\$29,881.90	\$6,249.79
July	20332.9	\$1.45	\$29,482.58	\$1,202.48	\$30,685.06	\$2,101.93	\$32,786.99	\$25,374.46	\$5,310.60
August	17877.3	\$1.45	\$25,922.10	\$1,202.48	\$27,124.58	\$1,858.03	\$28,982.61	\$22,427.74	\$4,696.84
September	15129.4	\$1.45	\$21,937.65	\$1,202.48	\$23,140.13	\$1,585.10	\$24,725.23	\$19,130.26	\$4,009.87
October	16109.9	\$1.45	\$23,359.30	\$1,202.55	\$24,561.85	\$1,682.49	\$26,244.34	\$20,306.86	\$4,254.99
November	4920.5	\$1.45	\$7,134.72	\$1,202.50	\$8,337.23	\$571.10	\$8,908.33	\$6,879.58	\$1,457.65
December	2277.4	\$1.45	\$3,302.23	\$1,202.50	\$4,504.73	\$308.57	\$4,813.30	\$3,707.86	\$796.87
Totals 2012	138982.2	17.4	\$201,524.04	\$14,434.96	\$215,959.03	\$14,792.85	\$230,751.91	\$178,478.40	\$37,480.63

Actual Billed and Paid at \$1.45 Interim Rate

	Gallons X 1000	Rate	Water Commodity Charges	Meter Charges (and +/-)	Combined Water Commodity and Meter Charge	Tax	Total Paid	Rates and Charges Under ROO	Overpayment not including taxes
2013									
January	1646.4	\$1.45	\$2,387.28	\$1,202.50	\$3,589.78	\$245.90	\$3,835.68	\$2,950.66	\$639.12
February	1721.5	\$1.45	\$2,496.18	\$1,202.50	\$3,698.68	\$253.36	\$3,952.04	\$3,040.78	\$657.90
March	5013.4	\$1.45	\$7,269.43	\$1,202.50	\$8,471.93	\$580.33	\$9,052.26	\$6,991.06	\$1,480.87
April	11158.6	\$1.45	\$16,179.97	\$1,202.50	\$17,382.47	\$1,190.70	\$18,573.17	\$14,365.30	\$3,017.17
May	16682.6	\$1.45	\$24,189.91	\$1,202.50	\$25,392.41	1739.38	\$27,131.79	\$20,994.10	\$4,398.31
June	21216.6	\$1.45	\$30,764.07	\$1,202.50	\$31,966.57	1870.04	\$33,836.61	\$26,434.90	\$5,531.67
July	22578.1	\$1.45	\$32,738.24	\$1,202.50	\$33,940.74	\$1,985.53	\$35,926.27	\$28,068.70	\$5,872.04
August	20859.7	\$1.45	\$30,246.56	\$1,202.50	\$31,449.06	\$1,839.77	\$33,288.83	\$26,006.62	\$5,442.44
September	7556.1	\$1.45	\$10,956.34	\$1,202.50	\$12,158.84	\$711.29	\$12,870.13	\$10,042.30	\$2,116.54
October	12973.9	\$1.45	\$18,812.14	\$1,202.50	\$20,014.64	\$1,170.86	\$21,185.50	\$16,543.66	\$3,470.98
November	5935.3	\$1.45	\$8,606.18	\$1,202.50	\$9,808.68	\$573.81	\$10,382.49	\$8,097.34	\$1,711.34
December	2990	\$1.45	\$4,335.50	\$1,202.50	\$5,538.00	\$323.97	\$5,861.97	\$4,562.98	\$975.02
Totals 2013	130332.2	17.4	\$188,981.80	\$14,430.00	\$203,411.80	\$12,484.94	\$215,896.74	\$168,098.40	\$35,313.40

Actual Billed and Paid at \$1.45 Interim Rate

	Gallons X 1000	Rate	Water Commodity Charges	Meter Charges (and +/-)	Combined Water Commodity and Meter Charge	Tax	Total Paid	Rates and Charges Under ROO	Overpayment not including taxes
2014									
January	4021.1	\$1.45	\$5,830.60	\$1,202.50	\$7,033.10	\$411.44	\$7,444.54	\$5,800.30	\$1,232.80
February	4745.1	\$1.45	\$6,880.40	\$1,202.50	\$8,082.90	\$472.85	\$8,555.75	\$6,669.10	\$1,413.80
March	6,738.3	\$1.45	\$9,770.53	\$1,202.50	\$10,973.03	\$641.92	\$11,614.95	\$9,060.94	\$1,912.09
April	14684.3	\$1.45	\$21,292.23	\$1,202.50	\$22,494.73	\$1,315.94	\$23,810.67	\$18,596.14	\$3,898.59
May	18413.1	\$1.45	\$26,698.99	\$1,202.50	\$27,901.49	\$1,632.24	\$29,533.73	\$23,070.70	\$4,830.79
June	19193.5	\$1.45	\$27,830.72	\$1,202.50	\$29,033.22	\$1,698.44	\$30,731.66	\$24,007.18	\$5,026.04
July	13567.7	\$1.45	\$19,673.16	\$1,202.50	\$20,875.66	\$1,221.23	\$22,096.89	\$17,256.22	\$3,619.44
August	12129.1	\$1.45	\$17,587.19	\$1,202.50	\$18,789.69	\$1,099.20	\$19,888.89	\$15,529.90	\$3,259.79
September	12701.8	\$1.45	\$18,417.61	\$1,202.50	\$19,620.11	\$1,147.78	\$20,767.89	\$16,217.14	\$3,402.97
October	8357.3	\$1.45	\$14,099.83	\$1,202.50	\$15,302.33	\$779.25	\$16,081.58	\$11,003.74	\$4,298.59
November									
December									
Totals 2014	114551.3	14.5	\$168,081.26	\$12,025.00	\$180,106.26	\$10,420.29	\$190,526.55	\$147,211.36	\$32,894.90

EXHIBIT 2

Exhibit 2

PROPOSED AMENDMENT NO. 1

At Page 34, delete lines 13-14 and replace with:

“Truxton is currently operating under interim rates and charges established in Decision No. 72724 (January 6, 2012).”

At Page 50, line 23, insert:

“E. True-Up

180. In Decision No. 72724, the Commission established interim rates and charges that were subject to true-up at the conclusion of the rate case proceeding. In light of the new rates and charges established herein, it is reasonable to require Truxton to calculate the amount of monies owed to all customers, including VVPOA, based on the interim rates and charges established in Decision No. 72724.

181. In Decision No. 72724, the Commission required VVPOA to provide Truxton with a \$20,000 security deposit, to be refunded by way of a bill credit to VVPOA's August 2012 water bill if all monthly payments to date had been timely paid. VVPOA provided Truxton with two \$20,000 deposits on December 27, 2011 and February 14, 2012. Despite making timely payments from January through August of 2012, Truxton failed to refund any portion of the \$40,000 security deposit via required bill credits. VVPOA has paid its water bill in a timely manner since 2012. Therefore, it is reasonable under Decision No. 72724 and the Arizona Administrative Code to require Truxton to make an immediate refund of VVPOA's security deposit in the amount of \$40,000, plus interest as required by our rules.”

At Page 60, line 21, insert:

“IT IS FURTHER ORDERED that Truxton shall prepare a report detailing the amount of bill credits each customer will receive as a result of the true-up provisions required in Decision No. 72724. Because the amount of bill credits is likely to be substantial and affect the cash flow needed to operate and maintain water service, we will require Truxton to submit to Staff a proposed Plan of Administration, which Staff may amend before submitting the plan for our approval. The Plan of Administration must be in place, with customers receiving bill credits, by February 1, 2015.

IT IS FURTHER ORDERED that Truxton shall provide an immediate refund of VVPOA's \$40,000 security deposit, plus required interest, within thirty (30) days of this Decision.”

All other conforming changes.